

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
Southern District of TexasUnited States Courts
Southern District of Texas
FILED

SEP 9 2021

United States of America

v.

Case No. C-21-1129M

Nathan Ochsner, Clerk of Court

Jessica Elaintrell Smith

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 17, 2021 in the county of Nueces in the
Southern District of Texas, the defendant(s) violated:*Code Section**Offense Description*

18 United States Code § 641

Did, without authority, sell, convey, or dispose of any record, voucher,
money, or thing of value of the U.S. or of any department or agency thereof..

This criminal complaint is based on these facts:

See affidavit

☒ Continued on the attached sheet.Submitted by electronic means, sworn to,
signature attested telephonically
per Fed. R. Crim. P. 4.1 and probable cause found:Date: September 9, 2021City and state: Corpus Christi, Texas*Complainant's signature*

Kevin Bittner, HSI, Special Agent

Printed name and title*Judge's signature*

Julie K. Hampton U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

1. On June 30, 2021, Special Agent M. Yokubaitis with the United States Army Criminal Investigation Division contacted agents with multiple agencies in Corpus Christi to request assistance with a Theft of Government Property investigation. SA Yokubaitis advised that on June 17, 2021 witnesses who were engaged in an inventory of United States Army equipment at Ford Hood Army Base reported that seventeen (17) Conex containers had the locks cut from them. An initial inspection of the interior of the containers revealed that several dozen pieces of night vision and radio equipment were missing. The formal inventory audit was completed on June 21, 2021 which revealed that the following United States Government equipment had been stolen:

- Sixty-Eight (68) PAS-13 Scopes
- Forty-Seven (47) RT 1523 Radios
- Nine (9) AN-PSC 5 Radios
- Four (4) PVS-14 Scopes
- Three (3) Night Vision Devices
- Three (3) AN/PRC 117 Radios
- Two (2) Receiver/Transmitters
- One (1) AN-VRC-90 Radio

2. As part of the inventory audit, SA Yokubaitis received an itemized listing of all stolen property, including their descriptions and serial numbers where applicable. The cost to the United States Government for the stolen property was estimated at \$2,176,000.

3. On June 29, 2021, at approximately 1523hrs, SA Yokubaitis conducted open-source internet searches to identify any of the stolen property being advertised for resale. SA Yokubaitis found a similar item listed for sale on the ecommerce website eBay. The listing was titled "AN/PAS-13C(V)3 HWTS THERMAL Scope Only Has 9 Mins Use" and had a list price of \$4,500. The listing indicated that the item location was in Corpus Christi, Texas, and the seller

profile was identified through the listing. SA Yokubaitis looked through the photographs of the items that were included in the listing and found a photograph which displayed the serial number of the item as 23382493642. The item description and serial number was a match to one of the stolen items listed on the inventory.

4. SA Yokubaitis searched the eBay site for additional current listings and previously sold listings made by the same user and identified the following additional items which displayed serial numbers that matched those from his stolen inventory list:

- “AN/PAS-13C(V)3 HWTS THERMAL Scope (only Has 3:05 Use On It); serial number 23381165081.
- “L3 Insight Technology Full Power PEQ15 (AN/PEQ-15) Genuine Item”; serial number 297399.
- “KNIGHTS ArmamentPVS-30 Gen 3, Very Good Condition, Genuine, Perfect Tube”; serial number 30-10125.
- Serial number 293009.

5. Subsequent investigations identified the eBay account being owned and operated by a fully identified subject residing in Corpus Christi. The eBay account holder’s residence was identified in Corpus Christi, TX. On 07/09/2021, HSI Corpus Christi executed a search warrant at the residence and recovered \$1,230,697 in U.S. currency, approximately 63 items, all of which were confirmed stolen by the U.S. Army CID, and multiple electronic devices.

6. One of the electronic communication devices was the cellular phone belonging to eBay account holder. This number was known to HSI Corpus Christi as being the phone number of that subject from previous encounters with him. There were no text conversations located on the device besides messages that were sent through the subject’s email account as SMS messages. HSI Corpus Christi conducted a lawful search of the cell phone. On the phone were numerous conversations with subject with whom the eBay account holder was communicating regarding the sale of stolen Army property (note: the conversations did not specify that there was knowledge that the items were stolen). As a result of those text conversations, as of the date of

this affidavit, 12 stolen Army items were recovered from internet buyers. It should be noted that no military items were located that were not stolen.

7. As a result of the recovery of the stolen Army property, agents were able to identify items that were stolen from separate incidents than the incident that initiated this investigation. These incidents were previously unknown to agents. Army CID estimates the date of the earliest theft of the items recovered from the eBay account holder as 03/02/2021. These theft incidents include the theft of PVS-7Bs and PAS-13s.

8. While continuing the search of the eBay account holder's phone, a conversation was found between the eBay account holder and a number saved as "BRO". Below is a transcript of the conversation.

- Bro: "Might have some more stuff tryna see now" (07/02/2021 @ 7:24 pm)
- Bro: "Did you get a price on the rest of that stuff" (07/03/2021 @ 12:30 am)
- eBay acct. holder: "Literally on it as we speak" (07/03/2021 @ 12:30 am)
- BRO: "Ok" (07/03/2021 @ 12:30 am)
- BRO: "In a movie" (07/04/2021 @ 2:40 am)
- eBay acct. holder: The eBay acct. holder sends a photo of an AN/PSQ-20, which is a monocular night vision device used by the United States military (07/04/2021 @ 11:55 pm). The target eBay account sold numerous PVS-7s (which are an older version of the AN/PSQ-20) that were stolen. Also, multiple PVS-14s were stolen from Fort Hood at the same time many of the items discovered in the eBay acct. holder's residence were stolen. The PVS-14 is also an older generation of the AN/PSQ-20.
- eBay acct. holder: "People asking me for this" (07/04/2021 @ 11:55pm)

9. Investigation into the phone number identified the phone number saved as "BRO" as belonging to a subject identified as Jessica SMITH of Killeen, Texas. Agents then began investigating SMITH for possible involvement in this case. SMITH is a veteran of the United States Army whose most recent duty station was Fort Hood. SMITH was discharged in 2016.

SMITH is listed as a disabled veteran, which gives her access to army bases using her disabled veteran ID. SMITH was also formerly employed as a Shipping/Receiving Clerk by a contractor on Fort Hood, Texas. She left her position as a contractor on 06/03/2021. SMITH's wife, who has been fully identified, was also formerly employed by a contractor on Fort Hood. SMITH's wife resigned her position as a contractor on Fort Hood on July 09, 2021, the same day agents executed a search warrant at the eBay acct. holder's residence.

10. Checks of the surveillance footage at a Fort Hood access gate showed SMITH entering Fort Hood on June 16, 2021 (the night the majority of the seized items were stolen) on two separate occasions. The first was at 8:23 pm and the second was at 9:04 pm.

11. Another person of interest was identified entering the base in the same timeframe as SMITH. This person has been fully identified and is herein referred to as "Subject 2". Army CID examined footage of subjects entering Fort Hood on the night of the theft (June 16/17) and identified Subject 2. Subject 2 entered in a vehicle and appeared to be dressed in all black. Subject 2 is employed as a contractor on Fort Hood and is also a veteran whose last duty station was Fort Hood. Subject 2 was discharged from the Army in 2019. Subject 2's current position as a contractor gives him access to the area where the items were stolen from. Using the aforementioned surveillance footage, Subject 2 was seen entering Fort Hood at 9:19 pm on June 16 and at 12:18 am on June

12. Subject 2's contract job duties did not include working on Fort Hood in the late hours of the that night. His first entrance on post was within 15 minutes of SMITH's second entrance that night. Records checks also show that SMITH and Subject 2's phones contacted one another 22 times between May 12, 2021 and May 27, 2021 which indicates that they knew one another.

13. Based in part on the aforementioned information, agents obtained a search warrant for the historical cell tower information for Subject 2 and SMITH's cellular phones. Analysis of the information provided by the cell carriers showed SMITH and Subject 2's phones on Fort Hood at the same time on the night of June 16th. Both phones showed them present on Fort Hood in the area of the theft between 11:08pm and 11:42pm on June 16th. Additionally, Subject 2 and

SMITH's phones both are serviced by AT&T and both showed the exact same grid coordinates (31.140778, -97.79225) while on Fort Hood. These coordinates showed them in the immediate area where the theft took place.

14. Further analysis was conducted of the GPS on the two phones. This analysis showed SMITH travel to Corpus Christi, Texas, on June 17, 2021, a few hours after being present on Fort Hood near the scene of the theft. At approximately 1:29pm, GPS data showed SMITH's phone arriving in Corpus Christi. The coordinates provided by SMITH's phone's GPS showed SMITH in the area of the eBay account holder's residence (where the items were seized during the aforementioned search warrant) between approximately 2:13pm and 2:40pm. The coordinates shown from the phone placed SMITH's phone within 0.4 miles (2-3 blocks) of the residence. SMITH's phone then returned to Killeen the same day.

15. Further checks into the communication between the eBay account holder and "BRO" showed that the eBay account holder's phone called "BRO" 5 times on 07/03/2021. Of those calls, one lasted for 11 minutes and 8 seconds. The eBay account holder's phone also received a call from "BRO" on 07/03/2021. That call lasted for 2 minutes and 3 seconds.

16. On the same day, 07/03/2021, agents identified a payment of \$9,940 that was sent from a PayPal account used by the eBay account holder to "Jessica Smith".

17. Agents continued searching the eBay account holder's phone for additional evidence. While examining the messages on his phone, another text was identified on the phone that said "It's bruh.....if I can get some nvgs how much you willing to pay ?" (the message was sent on March 02, 2021 which coincides with the suspected date of the earlier theft identified by U.S. Army CID). That number was found to belong to a service that generates artificial phone numbers and is commonly used by people who would like to remain anonymous in their communications. Lawfully obtained subscriber information on that number provided a phone number as the identifier for the account holder. The account holder phone number was the same number that was identified as belonging to Jessica SMITH. Record checks on the artificial number showed that the number was only being used on March 02 and March 03 of 2021. On

those days a total of 47 SMS messages were sent/received and 2 calls were made/received. Of those messages, 18 of them occurred in the 12 minutes prior to the message found on the phone.

Respectfully submitted.

A handwritten signature in black ink, appearing to read 'Kevin Bittner', written over a horizontal line.

Kevin Bittner
Special Agent
Homeland Security Investigations

Submitted by reliable electronic means, sworn to,
Signature attested telephonically per
Fed.R.Crim.P.4.1, and probable cause found on
September 9th, 2021.

A handwritten signature in black ink, appearing to read 'Julie K. Hampton', written over a horizontal line.

Julie K. Hampton
UNITED STATES MAGISTRATE JUDGE